

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Resolution No. ~~4603~~ authorizing execution of an Agreement for Public Defense Services with Stein, Lotzkar and Starr, P.S., Inc., to provide public defense services to indigent defendants accused of misdemeanor and gross misdemeanor offenses occurring in the City of Bellevue for the period from January 1, 2014 through December 31, 2017, in the amount of \$54,600 per month for the first year, adjusted annually thereafter in accordance with the formula set forth in the contract, plus other sums as provided in the contract, including appeals and court costs.

FISCAL IMPACT

The cost of this contract for 2014 is estimated to be \$54,600 per month plus appeal costs, court costs and other expenses. In 2013, the cost of the contract was \$51,336 per month plus 90% of CPI-W plus appeal costs, court costs and other expenses. The cost of this new contract in subsequent years is expected to increase in accordance with the formula set forth in the contract which consists of a base amount for each subsequent year plus CPI-W for up to 1625 cases, with any cases above this threshold limit being paid on a per case basis at a rate of \$335 per case. The cost of this contract is already budgeted for 2014 and will be proposed for the 2015-2016 budget. .

The City recoups some of the fees owed by defendants through direct payments from the defendant or through the collections process. Generally, the offset for fees recovered from defendants is approximately 9% of the total Public Defense budget. For the year 2013, the Public Defense budget is \$751,000.

STAFF CONTACT

Brad Miyake, Acting City Manager, 452-4096
City Manager's Office

Jerome Y. Roaché, Assistant City Attorney, 452-682
City Attorney's Office

POLICY CONSIDERATION

Washington State Constitution, Article 1:

- **SECTION 3 PERSONAL RIGHTS.** No person shall be deprived of life, liberty, or property, without due process of law.
- **SECTION 22 RIGHTS OF THE ACCUSED.** In criminal prosecutions the accused shall have the right to appear and defend in person, or by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to meet the witnesses against him face to face, to have compulsory process to compel the attendance of witnesses in his

own behalf, to have a speedy public trial by an impartial jury of the county in which the offense is charged to have been committed and the right to appeal in all cases.

RCW 10.101.005:

The legislature finds that effective legal representation must be provided for indigent persons and persons who are indigent and able to contribute, consistent with the constitutional requirements of fairness, equal protection, and due process in all cases where the right to counsel attaches.

Gideon v. Wainwright, 372 U.S. 335 (1963):

The Fourteenth Amendment to the U.S. Constitution requires the government to provide counsel in criminal cases to represent defendants who are unable to afford to pay their own attorneys.

BACKGROUND

Since the mid-1980's, the City has provided public defense services to indigent defendants accused of misdemeanor or gross misdemeanor offenses that occurred within the City by contracting with private individuals/firms that provide such services. The latest contract for public defense services expires on December 31, 2013.

In October 2013, the City issued a Request for Proposals (RFP) for the provision of public defense services. That RFP requested that interested individuals/firms submit proposals for a four year period, commencing January 1, 2014. RFP's were posted on the City website, as well as in local newspapers. Interested parties were able to download the RFP packet from the website.

Only one law firm responded to the RFP, which is the incumbent provider, Stein Lotzkar and Starr (SLS). No further inquiries were received from any law firms. In the past solicitations for services, the City found that it either had too large of a caseload for smaller firms to provide services, too small of a case load for larger firms, or the fees charged by a larger firms were significantly more.

Since the proposal submitted by SLS was in alignment with the City's expectations and the requirements set forth in the RFP, they were selected as the successful candidate and negotiations were undertaken with them.

The cost of the proposed contract with Stein, Lotzkar and Starr P.S., Inc. is higher than the previous contract but still within the City's range of expectations for such services, based on state requirements that governmental entities and public defense firms adhere to standards developed by the Washington State Bar Association (WSBA). These standards require the hiring of additional staff including investigators and social workers in order to meet the WSBA standards and case load ratios. Such requirements have made it more costly for defense firms to provide services, which in turn, makes it more costly for the City. In addition, the City requires use of seasoned public defenders. Generally, seasoned attorneys assess cases more quickly and are more efficient in court, resulting in

cost savings. While it costs more initially to attract and retain a seasoned attorney, the City achieves cost savings over time due to greater efficiency. While the cost has increased, historically recoupment of public defender fees ordered to be paid by indigent defendants who have been convicted of an offense has partially offset the actual costs of the contract. Generally, the offset for fees recovered from defendants is approximately 9% of the total Public Defense budget. For the year 2013, the Public Defense budget is \$751,000.

EFFECTIVE DATE

If adopted, this Resolution will be effective immediately.

OPTIONS

1. Adopt Resolution No. 8663 authorizing execution of an Agreement for Public Defense Services with Stein, Lotzkar and Starr, P.S., Inc., to provide public defense services to indigent defendants accused of misdemeanor and gross misdemeanor offenses occurring in the City of Bellevue for the period from January 1, 2014 through December 31, 2017, in the amount of \$54,600 per month for the first year, adjusted annually thereafter in accordance with the formula set forth in the contract, plus other sums as provided in the contract, including appeals and court costs.

2. Do not adopt Resolution No. 8663 and provide alternative direction to staff.

RECOMMENDATION

Adopt Resolution No. 8663 authorizing execution of an Agreement for Public Defense Services with Stein, Lotzkar and Starr, P.S., Inc., to provide public defense services to indigent defendants accused of misdemeanor and gross misdemeanor offenses occurring in the City of Bellevue for the period from January 1, 2014 through December 31, 2017, in the amount of \$54,600 per month for the first year, adjusted annually thereafter in accordance with the formula set forth in the contract, plus other sums as provided in the contract, including appeals and court costs.

MOTION

Move to adopt Resolution No. 8663 authorizing execution of an Agreement for Public Defense Services with Stein, Lotzkar and Starr, P.S., Inc., to provide public defense services to indigent defendants accused of misdemeanor and gross misdemeanor offenses occurring in the City of Bellevue for the period from January 1, 2014 through December 31, 2017, in the amount of \$54,600 per month for the first year, adjusted annually thereafter in accordance with the formula set forth in the contract, plus other sums as provided in the contract, including appeals and court costs.

ATTACHMENTS

Resolution No. 8663

AVAILABLE IN COUNCIL OFFICE

Contract for Public Defense Services

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 8663

A RESOLUTION authorizing execution of a four year Agreement with Stein, Lotzkar and Starr, P.S., Inc., in the amount of \$54,600 per month for the first year, adjusted annually thereafter in accordance with the formula set forth in the contract, plus court-related costs, for indigent defense services.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute a four year Agreement with Stein, Lotzkar and Starr, P.S., Inc., in the amount of \$54,600 per month for the first year, adjusted annually thereafter in accordance with the formula set forth in the contract, plus court-related costs, for indigent defense services, a copy of which Agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2013, and signed in authentication of its passage this _____ day of _____, 2013.

(SEAL)

Conrad Lee, Mayor

Attest:

Myrna L. Basich, City Clerk